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THE INTEREST IN ASSURANCES EFFECTED BY ONE PERSON
UPON THE LIFE OF ANOTHER.

To the Editor of the Assurance Magazine.

SIR,—The letter of your correspondent “Verus,” in the last Number of the *Magazine*, induces me to trouble you again upon this subject; especially as, if the views there expressed are entertained by any number of your readers, it is evident that so much difference of opinion exists on this question as to render further discussion desirable.

“Verus” expresses his belief that “the Act 14 Geo. III., cap. 48, has been and is a valuable protection to life assurance”; but the reasons assigned for this opinion seem hardly to warrant such a conclusion. He admits that the question of interest is very rarely raised when a claim is payable, which he looks upon as a proof of the “wholesome influence of the Act,” whereas all that it really proves is that one of the main provisions is habitually disregarded; and speaks of the facility and confidence with which an Office can fall back upon the *want of interest* in a case where it may be necessary to prove *fraud or swindling*. Now, bearing in mind that the undoubted object of this Act is to suppress, not fraudulent, but speculative assurances, and that fraud is never mentioned in it from one end to the other, it seems rather equivocal evidence of its successful working, that it accomplishes a purpose never contemplated at the time of its enactment. But surely fraud and gambling are two different things: if the law as it stands is insufficient to suppress the former, by all means let it be made more stringent; but do not let an Assurance Company defeat a swindler by assuming the character of moralist for that single occasion. I am not aware that the Act now under consideration has ever been made available for such a purpose; indeed, so far as I know, the only instance on record of a claim having been successfully resisted on this ground, is in the case of “Godsall v. Boldero,” where no imputation of fraud was even insinuated.

“Verus” further asserts, that a comparative immunity from gambling assurances must exist, because the question of interest is so seldom agitated. But this, again, is only begging the question: it is notorious, that when once a policy has been issued, the interest of the assured is thenceforth, by general consent, ignored altogether; because it is so universally admitted to have no bearing upon the contract, that any Office objecting to pay a claim for such a reason would at once lose ground in public estimation.

We have abundant evidence that speculation in life policies prevails to a great extent in open defiance of the law. They are advertised for sale almost daily; auctioneers have what they term “periodical sales,” in which this class of property is regularly included; Reversionary Societies announce in their prospectuses their willingness to purchase life assurances—one of them, in its recently published report, boasting of its success in this branch of its business; and many private individuals are known to be constantly in the habit of buying policies. I myself met with an instance, in the case of a gentleman recently deceased, where no less than fifty-nine policies, on the lives of various persons, formed part of the assets of his estate. And all these transactions are entered into upon the faith that the Offices will unhesitatingly pay the claims, in accordance with their invariable *practice*, but in utter disregard of the *law*, whose declared object is to prohibit such dealings

altogether, and not, as "Verus" seems to suppose, to protect Offices against the cases in which "any thing fraudulent or incorrect is mixed up with the policy."

Again: "Verus" remarks that the case I had "referred to as an example of an illegal insurance is strictly within the meaning of that term"; and that a person wishing to provide for a relative after his own death, can have no difficulty, upon the score of interest, in effecting a policy in the name of the latter in any Office. To this the simple answer is, that since the publication of his letter I have made some further inquiries upon this point, and can now assert, as a matter of fact, that leading Companies, transacting an extensive business, *do* refuse to entertain such proposals, informing the applicant that he must effect the assurance in his own name. This is a fair illustration of the varying practice that prevails in regard to this law.

Further: "Verus" contends that assuring the life of a debtor may be a bad speculation, but is a legitimate transaction. It may be a bad or good speculation, according as the event may prove; but once admit that it is a *speculation*, and there is an end of the argument. Where, then, is the efficiency of this law that professes to put a stop to speculative assurances altogether?

As regards Irish assurances, I believe that I was justified in the assertion that neither assurers nor assured were, generally speaking, aware that the Gambling Act did not apply to Ireland; it was certainly a very common application from that part of the kingdom to have the interest admitted on the policy. But be this as it may, it is I think undeniable that in former years some of the older Companies attached great importance to the question of interest in Irish assurances; and if this be true, the existing state of the law in that country certainly cannot be charged with the undue mortality that is known to have prevailed among Irish lives.

I believe that I have now noticed all the arguments adduced by "Verus," and confess that I see no reason to depart from any of the statements put forth in my former letter. Much might have been added, of the ignorance of the principles of life assurance evinced both in the framing of this Act by the legislature, and in its interpretation by the courts of law; the erroneous idea having apparently been entertained, that a life assurance policy is a contract of indemnity, resembling a fire or marine insurance. But this objection it can be necessary only to mention, the subject having already been treated by Mr. De Morgan, with his usual clearness and force, in a work (*Essay on Probabilities*, page 244) familiar to everyone who has made the theory of life assurance his study.

It can hardly be denied that a law must be in a very unsatisfactory state, when of its two main provisions one is altogether unheeded, and the other very partially acted upon. The so-called Gambling Act is in this predicament; and therefore, should circumstances again bring it under consideration, the only alternatives seem to be—either that it should be rendered more stringent, or abandoned altogether. In arriving at the conclusion that the latter is the more desirable course, it is certainly not from any favour for speculative assurances, but quite the reverse. I am not disposed to agree with the views of "Verus" as regards policies on the lives of debtors; on the contrary, I would look with some degree of suspicion upon all proposals where the pecuniary interests of the parties concerned would be best served by the failure of the life proposed, and I think that the motive for

the assurance might in every case be a legitimate subject of inquiry in the first instance. But just as (to cite one out of many similar cases that might be mentioned), although no one defends exorbitant rates of interest, yet the usury laws did not prevent their exaction, and have been swept away; so, not desiring speculation in life assurance, I doubt the wisdom of legislative interference in such a matter, because I doubt its power to attain the object it has in view. I would leave it entirely free, to be settled between the contracting parties; if a speculative assurance is offered, *caveat emptor*. I firmly believe that such freedom of action would not encourage or increase any "mischievous kind of gaming," while it would effectually abolish the anomalies and inconsistencies of the present state of things.

I am, Sir,

Your most obedient Servant,

Eagle Insurance Office,
1st November, 1854.

ARTHUR H. BAILEY.

NOTE.—It will be interesting to our readers to know that the leading case of *Godsall v. Boldero* (9 East, 72), referred to in the above communication—in which it was decided that a life policy by one person on the life of another was a mere contract of indemnity, and that therefore when a creditor insured the life of his debtor the policy became void upon payment of the debt, whatever the number of premiums the Office might have received—has been overruled by the decision of the Court of Exchequer Chamber, sitting as a Court of Error, in the case of *Dalby v. the India and London Life Assurance Company* (xviii. *Jurist*, 1024. *Weekly Reporter*, 16 Dec., 1854). We may hereafter give the report of this case at length; but for the present it will be sufficient to state that it decides that the contract is not one of indemnity—that the Gambling Act (14 Geo. III., cap. 48) was not declaratory of the common law, and that the requirements of that statute are satisfied by the existence of an insurable interest at the time that the policy is granted—and that the policy is not affected by the cesser of the interest at the time of the death. (*See Bunyon on Life Assurance*, pp. 6—26, where the view taken by the Court of Error is contended for.—Ed. A. M.)

WORKS RECENTLY PUBLISHED.

Friendly Societies' Sickness and Mortality. Mr. Alexander Glen Finlaison's Report. Second Part. Ordered by the House of Commons to be printed, 12th August, 1854.

Census of Great Britain, 1851. Population Tables II. Ages, Civil Condition, Occupations, and Birthplace, of the People; with the Numbers and Ages of the Blind, the Deaf and Dumb, and the Inmates of Workhouses, Prisons, Lunatic Asylums, and Hospitals. Presented to both Houses of Parliament, by command of Her Majesty, 1854.

Nouvelles Tables pour les Calculs d'Intérêts simples et composés, d'Amortissement, d'Annuités, de Primes, &c. Par P. A. Violeine, Membre de l'Ordre impérial de la Légion d'Honneur, Chef de Bureau au Ministère des Finances, &c. Paris. 1854.
